

**COMMONWEALTH OF MASSACHUSETTS
JUVENILE COURT DEPARTMENT**

STANDING ORDER 1-07
VIOLATION OF PROBATION PROCEEDINGS

I. Scope and Purpose

This standing order prescribes procedures in the Juvenile Court to be followed upon the allegation of a violation of an order of probation issued in a delinquency, youthful offender or criminal case after a finding of delinquency, youthful offender, or guilty, or after a continuance without a finding. This standing order does not apply to an alleged violation of pretrial probation, as the latter term is defined herein.

The purpose of this standing order is to ensure that judicial proceedings undertaken upon the allegation of a violation of probation are conducted in a manner consistent with the Commonwealth's policy regarding children as set forth in G.L. c. 119 and in full compliance with all applicable law, promptly and with an appropriate degree of procedural uniformity.

II. Definition of terms

In construing this standing order, the following terms shall have the following meanings:

"Continuance without a finding" means the order of a court, following a formal submission and acceptance of a plea of guilty or an admission to sufficient facts in a youthful offender case or criminal case; or, in a delinquency case, following a formal submission and acceptance of a plea of delinquency or an admission to sufficient facts or after a trial in which the allegations are proven beyond a reasonable doubt, whereby the case is continued to a date certain without the formal entry of a delinquency, youthful offender, or guilty finding. A continuance without a finding may include conditions imposed in an order of probation (1) the violation of which may result in the revocation of the continuance, entry of a finding of guilty, youthful offender or delinquency and imposition of sentence or commitment to the Department of Youth Services and (2) compliance with which will result in dismissal of the case.

"District Attorney" means the criminal prosecuting authority including the Attorney General if the delinquency, youthful offender, or criminal case in which probation was ordered was prosecuted by the Office of the Attorney General.

"General conditions of probation" means the conditions of probation that are imposed as a matter of course in every order of probation, as set forth in the official form promulgated by the Administrative Office of the Juvenile Court for such orders.

"Probation order" means the formal, written court order whereby a defendant is placed on probation and which expressly sets forth the conditions of probation.

"Pretrial probation" means the probationary status of a defendant pursuant to a probation order issued prior to a trial or prior to the formal submission and acceptance of a plea of delinquent, youthful offender or guilty, or prior to an admission to sufficient facts.

"Revocation of probation" means the revocation by a judge of an order of probation as a consequence of a determination that a condition of that probation order has been violated.

"Special conditions of probation" means any condition of probation other than one of the general conditions of probation.

"Surrender" means the procedure by which a probation officer requires a probationer to appear before the court for a judicial hearing regarding an allegation of a probation violation.

III. Commencement of Violation Proceedings: Charged Criminal Conduct

(a) General. This standing order prescribes the procedures to be undertaken upon the issuance of a delinquency or criminal complaint or youthful offender indictment against a probationer.

(b) Where Probation Order and Delinquency or Criminal Complaint or Youthful Offender Indictment Involve Same Division

(i) Issuance and Service of Notice. When a delinquency or criminal complaint is issued by a division or a youthful offender indictment is returned by a grand jury and remitted to a division of the Juvenile Court Department against a defendant who is the subject of a probation order previously issued by that same division, the Probation Department shall commence violation proceedings against that probationer. Such proceedings shall be commenced by the issuance by the Probation Department of a Notice of Probation Violation/Hearing at or before the arraignment on the delinquency or criminal complaint or youthful offender indictment. The Notice shall be served on the probationer in hand at arraignment and such service shall be recorded on the case docket, provided that if such in-hand service is not possible, the Notice shall be served on the probationer by first-class mail, unless the court orders otherwise. Service of the Notice by first-class mail shall be recorded on the case docket. Out of court service other than by mail shall require a written return of service. A copy of each Notice of Probation Violation/Hearing shall be provided to the District Attorney forthwith upon its issuance.

The court, upon review of the Notice at arraignment and as a matter of its discretion, may order no further proceedings in the matter, and in such cases formal service of the Notice on the probationer shall not be required.

(ii) Contents of Notice. The Notice of Probation Violation/Hearing shall set forth the criminal conduct alleged to have been committed by the probationer as indicated in the delinquency or criminal complaint or youthful offender indictment, and shall set forth any other

specific conditions of the probation order that the Probation Department alleges have been violated with a description of each such alleged violation.

(iii) Scheduling of Hearing. The probation violation hearing shall be scheduled to be conducted on the date of the pretrial hearing for the new delinquency or criminal complaint or youthful offender indictment, unless the court expressly orders an earlier hearing. The hearing shall be scheduled for a date certain no less than seven days after service on the probationer of the Notice of Violation/Hearing unless the probationer waives said seven day notice period. The hearing date shall not be later than fifteen days after service of the Notice of Violation/Hearing without the probationer's consent if he or she is held pursuant to Section V of this standing order, or in any case no later than thirty days after service of the Notice of Violation/Hearing if the probationer objects, except in extraordinary circumstances. In scheduling the pretrial hearing on the new delinquency or criminal complaint or youthful offender indictment together with the probation violation hearing, the court shall give primary consideration to the need for promptness in conducting the probation violation hearing.

(c) Where Probation Order and Delinquency or Criminal Complaint or Youthful Offender Indictment Involve Different Divisions.

(i) Issuance and Service of Notice. When a delinquency or criminal complaint is issued by a division of the Juvenile Court Department or a youthful offender indictment is returned by a grand jury against a defendant who is the subject of a probation order issued by a different division of the Juvenile Court Department, the Probation Department in the division that issued the delinquency or criminal complaint or youthful offender indictment shall issue a Notice of Probation Violation/Hearing to the probationer at or before arraignment on the new delinquency or criminal complaint or youthful offender indictment. The Notice, as provided in section (c)(ii), below, shall be served on the probationer in hand at arraignment and such service shall be recorded on the case docket. The Probation Department forthwith shall send a copy of said Notice, indicating such in-hand service, to the Probation Department of the division that issued the probation order, together with a copy of the complaint and police report on the new delinquency or criminal complaint or youthful offender indictment that constitutes the alleged probation violation. Nothing in this standing order shall preclude the issuance and service on the probationer of a Notice of Probation Violation/Hearing by the Probation Department of the division that issued the probation order. If in-hand service is not possible, the notice shall be served on the probationer by first-class mail unless the court orders otherwise.

(ii) Contents of Notice. The Notice of Probation Violation/Hearing issued to and served on the probationer at the division that issued the delinquency or criminal complaint or youthful offender indictment shall set forth the criminal conduct alleged to have been committed by the probationer as indicated in the delinquency or criminal complaint or youthful offender indictment and shall order the probationer to appear at a specific date and time at the division that issued the probation order.

(iii) Scheduling of Hearing; Service by Probation Division. Upon appearance of the probationer at the division that issued the probation order in accordance with the Notice served pursuant to subsection (ii), the court shall appoint counsel, if necessary, and schedule a probation violation hearing for a date certain, said date to be no less than seven days later unless the probationer waives said seven-day period. The hearing date shall not be later than fifteen days after service of the Notice of Violation/Hearing without the probationer's consent if he or she is held pursuant to Section V of this standing order, or in any case no later than thirty days after service of the Notice of Violation/Hearing if the probationer objects, except in extraordinary circumstances. The Probation Department may revise the Notice of Probation Violation/Hearing by adding to it any additional alleged violations. Such additional allegations shall set forth the specific conditions of the probation order alleged to have been violated with a description of each such alleged violation. The Notice, with amendments, shall be served on the probationer in hand while he or she is before the court. Such service shall be recorded on the case docket. A copy of the Notice, with any amendments, shall be provided to the District Attorney. The probationer shall receive either written or actual notice of the date, time and place of the hearing.

The court, upon review of the Notice at the outset of the hearing and as a matter of its discretion, may order no further proceedings in the matter, and in such cases no hearing shall be scheduled nor further Notice served.

Commentary

Notice to District Attorney

This standing order requires that a copy of the Notice of Probation Violation and Hearing be provided to the District Attorney. The relevant law, G.L. c. 279, §3, gives the District Attorney the right to receive a copy of the notice and appear at such hearings only when the original conviction for which the probationer is on probation involves at least one felony. However, this standing order reflects the position that the District Attorney should be allowed to appear at all such hearings. It allows the District Attorney to decide which hearings to attend and provides as an alternative the submission of a written statement. This is appropriate, given the fact that some misdemeanor charges may have greater public safety implications than felony charges, e.g., assault and battery. Also, the District Attorney has certain obligations to victims of crime regarding probation violation hearings that can be met only if the District Attorney is informed of the scheduling of such hearings.

IV. Commencement of Violation proceedings: Violations other than Criminal Conduct

(a) General. This standing order prescribes the procedures to be undertaken regarding alleged violations of probation that do not involve or include criminal conduct charged in a delinquency or criminal complaint or youthful offender indictment.

(b) Issuance and Service of Notice. When a probation officer of a division that has issued a probation order determines that a probationer has violated any condition of that order other than the alleged commission of a crime as charged in a delinquency or criminal complaint or youthful offender indictment, that probation officer shall decide whether to commence probation violation proceedings. Such decision shall be made in accordance with the rules and regulations of the Office of the Commissioner of Probation, provided, however, that probation violation proceedings shall be commenced (1) upon the issuance of a criminal complaint or indictment, (2) when the judge issuing the probation order orders that such proceedings are to be commenced

upon an alleged violation of one or more conditions of probation, or (3) when the commencement of such proceedings is required by statutory mandate. In any case, a judge of the division may order the commencement of violation proceedings.

The Notice of Probation Violation/Hearing as provided in section (c), below, shall be served on the probationer in hand or by first-class mail, unless the court orders otherwise. Service of the Notice in hand or by first-class mail shall be recorded on the case docket. Out-of-court service other than by first-class mail shall require a written return of service. A copy of each Notice of Probation Violation/Hearing shall be provided to the District Attorney forthwith upon its issuance.

(c) Contents of Notice. The Notice of Probation Violation/Hearing shall set forth the conditions of the probation order that the Probation Department alleges have been violated and shall order the probationer to appear at a specific date and time.

(d) Scheduling of Hearing. Upon appearance of the probationer in accordance with the Notice required by section (c), the court shall appoint counsel, if necessary, and schedule a probation violation hearing for a date certain, said date to be no less than seven days later unless the probationer waives said seven-day notice period. The hearing date shall not be later than fifteen days after said appearance without the probationer's consent if he or she is held pursuant to Section V of this standing order, or in any case no later than thirty days after said appearance if the probationer objects, except in extraordinary circumstances.

V. Preliminary Violation Hearings

(a) Purpose. A preliminary probation violation hearing shall be conducted when the Probation Department seeks to hold a probationer in custody or to request an order of release with terms on the basis of an alleged violation of probation pending the conduct of a full probation violation hearing. The issues to be determined at a preliminary probation violation hearing are whether probable cause exists to believe that the probationer has violated a condition of the probation order, and, if so, whether the probationer should be held in custody, or whether an order of release with terms pending a final probation violation hearing is appropriate. An order of release with terms shall issue only with the consent of the probationer.

(b) Notice of Hearing. When a probationer is before the court having been arrested on a new delinquency or criminal complaint, or youthful offender indictment for a probation violation, or for any other reason, and the Probation Department seeks to hold the probationer in custody or request an order of release with terms, he or she shall be given notice of the alleged probation violation and advised that the purpose of the hearing is to determine whether there is probable cause to believe that he or she committed that violation.

(c) Conduct of Hearing. Preliminary probation violation hearings shall be conducted by a judge or, if a judge is not available, a clerk-magistrate, in a courtroom on the record. The probationer shall be entitled to counsel. After the probationer has been advised of the alleged

probation violation; that a preliminary probation violation hearing will be conducted as provided in section (b), above, and counsel has been appointed, if necessary; the probationer shall be allowed a reasonable time to prepare for the hearing. At the hearing, the probation officer shall present evidence to support a finding of probable cause. The District Attorney may assist in the presentation of such evidence. The probationer shall be entitled to be heard in opposition. Testimony shall be taken under oath. The court shall admit such evidence as it deems relevant and appropriate. The proceeding shall be limited to the issue of probable cause to believe that the alleged violation of probation has occurred.

If probable cause is found, a final probation violation hearing shall be scheduled, the probationer shall be served in hand a Notice of said hearing, and the court may order the probationer to be held in custody, or issue an order of release with terms with probationer's consent to such order, pending the conduct and completion of the scheduled final violation hearing. The court's decision whether to release the probationer or issue an order of release with terms pending the conduct and completion of the final probation violation hearing, notwithstanding a finding of probable cause on an alleged violation, shall include, but not necessarily be limited to:

- i. the probationer's criminal or juvenile record;
- ii. the nature of the offense for which the probationer is on probation;
- iii. the nature of the offense or offenses with which the probationer is newly charged, if any;
- iv. the nature of any other pending alleged probation violations;
- v. the likelihood of probationer's appearance at the final probation violation hearing if not held in custody; and
- vi. the likelihood of incarceration or commitment if a violation is found following the final probation violation hearing.

If no probable cause is found, a probation violation hearing may be scheduled and the probationer thereupon served with notice thereof, but the probationer may not be held in custody nor shall an order of release with terms be issued pending said hearing based on the alleged probation violation.

(d) Bail. Upon a finding of probable cause and an order of custody, the court shall not consider or impose any terms of release such as bail, personal recognizance or otherwise as an alternative to such custody. Notwithstanding such order of probation custody, the court shall proceed to determine the issues of bail and pretrial detention ("dangerousness") on any newly charged offense, as provided by law.

Commentary

Order of Release

This standing order provides two alternatives for judges to consider, after a finding of probable cause, regarding the probationer's custody status pending the violation of probation hearing: an order of release with terms with the probationer's consent or held in custody. Section V specifically allows for an order of release with terms to be issued by a judge with the consent of the probationer in lieu of ordering a probationer to be held in custody. The order of release with terms provides the Juvenile Court with the ability to release a juvenile, when custody may not be in the best interest of the juvenile, with imposed terms of release that strike a balance between issues of public safety and the best interests of the child. Examples of terms of release include shortening curfew and/or other restriction on the juvenile's activities. The term(s) of the order shall be limited and consistent with the purpose of providing judges with a mechanism for releasing a juvenile to attend school and to receive services available only in the community. Allowing for an order of release with terms with consent of the probationer, where appropriate, rather than holding in custody, is consistent with the Juvenile Court's mission to further the best interests of children who appear before the court by offering a course of rehabilitation rather than punishment, consistent with the provisions of G.L. c 119. See also *Jake J. v. Commonwealth*, 433 Mass. 70, 75 (2000). If a probationer released on an order of release with terms fails to comply with the order, the probationer may be subject to arrest and brought before the court for a review of custody status.

Order of Custody

Section (d) makes clear that bail and other terms of pretrial release have no application to a probationer's custody pending the conduct and completion of a final probation violation hearing. Bail and other conditions of pretrial release, including pretrial detention based on "dangerousness" under G.L. c. 276, § 58 and 58A, have no legal or conceptual relevance to custody on an alleged probation violation. They relate solely to a newly alleged crime. If the court finds probable cause for a probation violation, it may order the defendant into custody pending the final hearing on the violation. If the court does not find probable cause, the probationer cannot be held in custody on the alleged violation. Even if the probationer is held on the probation allegation, if he or she is also before the court on a new criminal charge, the court must address the terms of pretrial release. This issue is unrelated to custody on the probation charge. The prosecutor may want to be heard on the issue of bail or dangerousness because if the probation matter is promptly resolved, the defendant may be released from custody on the probation matter well before the criminal case is concluded.

Conversely, the issue of probation custody should be addressed regardless of whether or not the prosecutor plans to ask for high bail or pretrial detention based on dangerousness.

VI. Conduct of Hearings

(a) In General. Probation violation hearings shall be conducted by a judge, on the record, with such flexibility and informality as the court may deem appropriate, consistent with the requirements of this standing order and applicable law. All testimony shall be taken under oath. The presentation of the case against the probationer shall be the responsibility of the probation officer assigned by the Chief Probation Officer of the court. The probationer shall be entitled to the assistance of counsel, including the appointment of counsel for probationers determined by the court to be indigent.

(b) Requirement of Two Step Procedure. Probation violation hearings shall proceed in two distinct steps, the first to adjudicate the factual issue of whether the alleged violation or violations occurred, the second to determine the disposition of the matter, if a violation of probation is found by the court to have occurred.

(c) Adjudication of Alleged Violation. Probation violation hearings shall commence with testimony by the probation officer describing the violation or violations alleged in the Notice of Violation and Hearing, and shall proceed with a presentation of the evidence supporting said allegations. The probationer shall be permitted to present evidence relevant to the issue of the alleged violation. Each party shall be permitted to cross-examine witnesses produced by the opposing party. Hearsay evidence shall be admitted by the court in accordance with Section VII of this standing order, provided that the court shall enforce any statutory privileges unless waived and any legally required disqualifications. The probation officer shall have the burden of proving the alleged violations with or without the participation of the District Attorney as provided below. The standard of proof at such hearings shall be the civil standard of preponderance of the evidence. After the presentation of evidence, both the probation officer and the probationer shall be permitted to make a closing statement.

(d) Dispositional Decision. If the court finds that the probationer has violated one or more conditions of probation as alleged, the probation officer shall recommend to the court a disposition consistent with the dispositional options set forth in Section VIII(d), below, and may present argument and evidence in support of that recommendation. The probationer shall be permitted to present argument and evidence relevant to disposition and to propose dispositional terms.

(e) Continuances. Probation violation hearings shall be continued only by a judge and for good cause shown. The reason for any continuance shall be stated by the judge and recorded on the case docket. No continuance shall be ordered other than to a date certain and for a specific purpose, and as provided in Section VIII(a). The pendency of a delinquency, criminal or youthful offender action on a complaint or indictment which also constitutes an alleged violation of probation shall not be grounds for a continuance of the probation violation hearing unless a judge determines the interests of justice will be served by such a continuance.

(f) Participation of the District Attorney.

(i) In General. The District Attorney may participate in probation violation hearings as provided in G.L. c. 279, s. 3, and such participation shall be permitted in any such proceeding regardless of whether the delinquency or criminal or youthful offender case in which the probation order was issued involved a felony charge.

(ii) Coordination with the Probation Department. If the District Attorney intends to appear at a probation violation hearing, he or she shall confer prior to the hearing with the probation officer responsible for presenting the matter to the court, for the purpose of coordinating the District Attorney's involvement in the hearing with the planned presentation of the probation officer.

(iii) Presentation of Evidence. The District Attorney may present and examine witnesses at the hearing and may examine witnesses presented by the probation officer, and may cross-examine witnesses presented by the probationer. The probationer may cross-examine witnesses

presented by the District Attorney. The District Attorney shall be responsible for the attendance of every witness he or she wishes to present, and for the summoning of such witnesses.

(iv) Finding and Disposition. After the presentation of evidence, the District Attorney may make a statement regarding the factual issue of whether one or more violations of probation has occurred.

Commentary

District Attorney Participation

Section (f) addresses participation by the District Attorney. Sections III and IV of this standing order require the court to provide a copy of every Notice of Probation Violation and Hearing to the District Attorney. Section (f) is intended to clarify the involvement of the District Attorney in those cases where he or she decides to participate, consistent with the statutory provisions of G.L. c. 279, § 3.

It should be noted that as a constitutional matter, probation functions are within the judicial branch, and the office of the District Attorney is considered within the executive branch. *Commonwealth v. Tate*, 34 Mass.App.Ct. 446 (1993). Under the Massachusetts Constitution, Pt. 1 Art. 30, the branches must maintain a separation of governmental powers. That separateness does not, however, lead to the conclusion that a district attorney's office may not assist the probation service in presenting evidence in support of a position that the probation service had decided upon. Probation officers are only aided, not interfered with, when district attorneys, upon invitation, conduct examination of witnesses and present evidence. *Commonwealth v. Tate* at 448 and cases cited.

Thus the right of District Attorneys to present evidence and witnesses, and to examine and cross-examine witnesses at these proceedings would appear to be constitutionally acceptable as long as it does not fundamentally interfere with probation.

VII. Hearsay Evidence

(a) Admissibility of Hearsay Evidence. Hearsay evidence shall be admissible at probation violation hearings.

(b) Sufficiency of Evidence When Case Rests Solely on Hearsay. Where the sole evidence submitted to prove a violation of probation is hearsay, that evidence shall be sufficient only if the court finds in writing (1) that such evidence is substantially trustworthy and demonstrably reliable and (2) if the alleged violation is charged or uncharged criminal behavior, that the probation officer has good cause for proceeding without a witness with personal knowledge of the evidence presented.

VIII. Finding and Disposition

(a) Requirement of Finding. Upon the completion of the presentation of evidence and closing arguments on the issue of whether the probationer has violated one or more conditions of a probation order, as alleged, the court shall make a determination of that issue. The court shall decide the matter promptly and shall not continue the proceeding generally.

(b) Finding of No Violation. If the court determines that the probation officer has failed to prove by a preponderance of the evidence that the probationer committed a violation alleged in

the Notice of Probation Violation and Hearing, the court shall expressly so find and said finding shall be recorded on the case docket.

(c) Finding of Violation; Written Findings of Fact. If the court determines that the probation officer has proved by a preponderance of the evidence that the probationer has violated one or more conditions of probation as alleged in the Notice of Probation Violation and Hearing, or if the probationer admits or stipulates to such violation, the court shall expressly so find, and said finding shall be recorded on the case docket. The court shall make written findings of fact to support the finding of a violation, stating the evidence relied upon.

(d) Disposition After Finding of Violation. After the court has entered a finding that a violation of probation has occurred, the court may order any of the following dispositions set forth below, as it deems appropriate. These dispositional alternatives shall be the exclusive options available to the court. In determining its disposition, the court shall give appropriate weight to the recommendation of the Probation Department and such factors as public safety; the seriousness of any offense of which the probationer was convicted or adjudicated; the nature of the probation violation; the occurrence of any previous violations and the impact on any victim of the underlying offense, as well as any mitigating factors.

(i) Continuance of Probation. The court may decline to modify or revoke probation and, instead, issue to the probationer such admonition or instruction as it may deem appropriate.

(ii) Termination. The court may order that the probation be considered completed and terminate the probation order.

(iii) Modification. The court may modify the conditions of probation. Such modification may include the addition of reasonable conditions and the extension of the duration of the probation order.

(iv) Revocation; Statement of Reasons. The court may order that the order of probation be revoked. If the court orders revocation, it shall state the reasons therefor in writing.

(e) Execution of Suspended Sentence or Commitment; Stay of Execution. Upon revocation of a probation order, any sentence or commitment to the Department of Youth Services that was imposed for the offense involved, the execution of which was suspended, shall be ordered executed forthwith; provided, however, that such execution may be stayed (1) pending appeal in accordance with Mass.R.Crim.P. 31, or (2) at the court's discretion, and upon the probationer's motion, to provide a brief period of time for the probationer to attend to personal matters prior to commencement of a sentence of incarceration or commitment to the Department of Youth Services. The execution of such sentence or commitment shall not be otherwise stayed.

(f) Imposition of Sentence or Commitment Where No Sentence or Commitment to the Department of Youth Services Previously Imposed. Upon revocation of probation in a case

where no sentence or commitment was imposed following conviction or adjudication, the court shall impose a sentence or commitment as provided by law.

IX. Violation of Conditions of a Continuance Without a Finding

(a) Notice, Conduct of Hearing, Adjudication. The procedures set forth in this standing order regarding notice for, and the conduct and adjudication of, probation violation hearings shall also apply where the Probation Department alleges a violation of probation that was imposed together with a continuance without a finding.

(b) Disposition. The dispositional options available to the court following a determination that one or more conditions of probation imposed together with a continuance without a finding have been violated shall be as follows:

(i) Continuation of the Continuance. The court may decline to modify or revoke the probation order and instead may continue the continuance without a finding and issue to the probationer such admonition or instruction as it may deem appropriate.

(ii) Termination. The court may order that the continuance without a finding be considered completed, terminate the order of probation and enter a dismissal on the underlying criminal case.

(iii) Modification. If the violation consists of a criminal or delinquent act, or if the court determines that the violation constitutes a material change in circumstance, it may continue the continuance without a finding and modify the conditions of probation including the duration of the continuance.

(iv) Revocation. The court may revoke the order of probation and terminate the continuance without a finding, whereupon a finding of guilty, delinquency or youthful offender shall be entered.

(c) Execution of Sentence or Commitment; Stay of Execution. Upon revocation of probation, any sentence or commitment to the Department of Youth Services that was specified as a condition of the plea or admission and accepted by the court that ordered the continuance, shall be imposed and executed forthwith; provided, however, that such execution may be stayed (1) pending appeal in accordance with Mass. R. Crim. P. 31, or (2) at the court's discretion, and upon the probationer's motion, to provide a brief period of time for the probationer to attend to personal matters prior to commencement of a sentence of incarceration or commitment to the Department of Youth Services. The execution of such sentence shall not be otherwise stayed.

(d) Imposition of Sentence When No Sentence or Commitment Previously Specified. Upon revocation of a probation order where no sentence or commitment to the Department of Youth Services was specified as a condition of the plea or admission and accepted by the court that ordered the continuance, the court shall impose sentence or commitment as provided by law.